



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Los Angeles Region

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Los Angeles Regional Water Quality Control Board

Minutes of the April 25, 2002 Regular Board Meeting held at City of Agoura Hills Council Chambers 30001 Ladyface Court, Agoura Hills, CA

INTRODUCTION

The meeting was called to order by Acting Chairperson Cloke at 10:40 am.

Board Members Present

Susan Cloke, Robert Miller, Bradley Mindlin, Christopher Pak and Timothy Shaheen

Board Members Absent

Julie Buckner-Levy, Francine Diamond, R. Keith McDonald, and H. David Nahai

Staff Present

Deborah Smith, Wendy Phillips, David Bacharowski, Jonathon Bishop, Ronji Harris, Laura Gallardo, Robert Sams, Michael Lauffer, Jack Price, Steve Cain, Jenny Newman, Melinda Becker, Nhan Bao, Blythe Ponek-Bacharowski, David Hung, Cassandra Owens, Michael Lyons, Paula Rasmussen, Hugh Marley, Dionisia Rodriguez, Enrique Casas, Lala Kabadain, Carey Wilder, Hoan Tang, Rod Nelson, Kwang-il Lee, Don Tsai, Jau Ren Chen, Renee DeShazo, Deborah Neiter, L.B. Nye

Others Present

Jim Colbaugh, Las Virgenes MWD
Joe Doughly, Caltrans
Jacqy Gamble, Las Virgenes MWD
Glenn Wensloff, Elutriate Systems
Bob Wu, Caltrans District 07

Dan Schultz, City of Glendale
Ragy Samy, Caltrans
Peter Newman, Truck Parts Company
Maurice Oillataguerre, City of Glendale
Sharouzeh Saneie, City of Los Angeles

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Pledge of Allegiance

1. Roll Call

A roll call was taken.

2. Order of Agenda.

The Assistant Executive Officer, Deborah Smith, recommended the following changes to the Agenda.

- *Items 8.1, 8.2, and 11 will be taken off of the consent items calendar*

MOTION: By Board Member Cloke, seconded by Board Member Mindlin and approved on a voice vote. No votes in opposition.

3. Staff Recognition

Renee DeShazo of the Standards and TMDL unit and Nhan Bao of the Underground Storage Tanks section each received the Sustained Superior Accomplishment Award for outstanding job performance over and above normal job expectations for a period of not less than two years.

4. Approval of Minutes

The Board approved the minutes from the February 19, 2002 special Board meeting, and the February 28, 2002 and March 28, 2002 regular Board meetings with some minor changes.

MOTION: By Board Member Shaheen, seconded by Board Member Mindlin and approved on a voice vote. No votes in opposition.

5. Board Member Communications and Ex Parte Disclosure

Board Member Mindlin, along with Board Member Nahai and Chairperson Diamond, met with Rocky Delgadillo to discuss the relationship between the Regional Board and the City of Los Angeles but did not focus on any specific item from today's agenda.

Board Member Cloke met with Los Angeles County Supervisor Gloria Molina and had a similar conversation.

6. Public Forum

Shahram Kharaghani, Storm Water program Manager for the City of Los Angeles, reported on the status of the City's implementation of the storm water permit. The City

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has begun implementation the SUSMP provisions, construction inspections, grading plans, and commercial/industrial inspections as required by the permit. He also updated the Board on the City's compliance with the Trash TMDL, their implementation of low-flow storm drain diversions, and their monitoring program.

Jim Colburn, Manager, Las Virgenes Water District spoke about the low flow in Malibu creek and stated that the District would have to supplement the flow in the fall if the dry weather continued.

Bruce Hauser, Enpirm Technologies, spoke about his companies ammonia treatment system and provided staff with informational materials.

7. Uncontested Items Calendar

There was a motion to approve the following uncontested items: 8.3 – 9.9, and 12.

MOTION: By Board Member Cloke, seconded by Board Member Pak, and approved on a voice vote. No votes in opposition.

WASTE DISCHARGE REQUIREMENTS

8.1. Harris Water Conditioning, Inc., Ventura

Blythe Ponek-Bacharowski, Acting Chief, Watershed Regulatory, gave the staff presentation. She presented the background, location, discharge information, a description of the facility, and compliance history. Harris discharges up to 100,000 gallons a day of backwash and final rinse water to the Arundell Barrenca, which empties into the Ventura Harbor. Harris has had chronic exceedances of their existing copper limit and was issued an ACL in 1992. The new requirements contain CTR and SIP based standards and a two-year compliance schedule with interim limits. Ms. Ponek-Bacharowski then reviewed the comments from the discharger, Ventura CoastKeeper and Heal the Bay. The discharger asked for a five-year compliance schedule and opposed the CTR limits. They also objected to the REC-1 beneficial use for the Barrenca. Heal the Bay questioned whether fresh water or salt water limits would be appropriate and asked for quarterly monitoring of acute and chronic toxicity instead of annual monitoring. Ventura CoastKeeper suggested that Harris and Puretec, whose permit will be renewed at a later board meeting, were indistinguishable and should be considered together. They also asked that there be no compliance schedule and asked that the Board look into their claims of Harris's unpermitted discharge of resin pellets to the Barrenca. Ms. Ponek-Bacharowski then went over the change sheet, which included the addition of semi-annual toxicity monitoring based on the recommendation of Heal the Bay.

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Robert Stevens, owner of Harris, gave the first part of the discharger presentation. He gave background and a process description, and a description of the Barrenca that he felt disputed its beneficial use designation.

John Loherman, consultant for Harris, addressed the REC-1 beneficial use designation for the Barrenca. He stated that the Barrenca was not specifically identified in the Basin Plan and the designation was borrowed from other waterways in the watershed. He also discussed the SIP and CTR based limits, stating that there was not enough data for a reasonable potential analysis. He asked for a compliance schedule of at least 2 ½ years to allow time to collect data. He added that there was no ambient background data, dilution credit, mixing zones, or intake credit used in the WQBEL formula. Finally he stated that the semi-annual toxic monitoring would be a tremendous burden.

David Wang, Ventura CoastKeeper, stated that Harris had consistently exceeded their metal limits and sporadically exceeded other limits and should therefore be required to be in immediate compliance with the permit. He added that there should be a full investigation to the possible discharge of resin beads to the Barrenca.

Deborah Smith, Assistant Executive Officer responded to some of the comments made by Harris and CoastKeeper. She stated that since there were new limits in the permit, staff wanted to allow a time schedule, but felt five years was too long. Staff agreed to a 2-½ year schedule.

Board Member Mindlin asked what the cost difference between annual and semi-annual monitoring would be and Mr. Loherman replied that it would cost an additional \$3000 per test.

Board Member Mindlin asked if staff had a problem with requiring semi-annual toxicity monitoring for the first two years of the permit followed by annual monitoring if Harris showed compliance and staff agreed to this provision.

Board Member Cloke asked about the beneficial use designation and if it was based on the fact that the Barrenca would eventually reach the Ventura Harbor, which was designated as REC-1.

Michael Lauffer, Staff Counsel, answered that this was true under the tributary rule. He added that the Clean Water Act states all waters of the U.S. shall have a goal of being fishable and swimmable, which means that beneficial uses can be potential.

Board Member Cloke asked about the issue of equity between this permit and other permits for similar facilities.

Mr. Lauffer replied that although the discharger had stated the need for more data for the RPA, in this case there was sufficient data. Mr. Lauffer explained

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that for other facilities with insufficient data, a 13267 letter would be required and therefore the permits may look different even though the facilities are similar.

Board Member Cloke stated that if staff were to find something different after more monitoring data was available, it would be possible to come back before the Board and change the permit, but that she didn't see the need to extend the compliance schedule past 2 years.

There was a motion to adopt the staff recommendation with the changes in the change sheet and a footnote with language stating that after 2 years and with approval of the executive officer, the toxicity monitoring could be reduced from semi-annual to annual.

MOTION: By Board Member Cloke, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

8.2. City of Avalon Wastewater Treatment Plant

Blythe Ponck-Bacharowski gave the staff report including background, discharge information, description of the wastewater, outfall location, compliance history, and a review of the new limits. The treatment plant discharges 5.6 million gallons per day and has been consistently in compliance since 1994, with the exception of two large spills, which are now preventable. She then went over the changes in the change sheet and two verbal changes: one to a footnote in Finding 21 and one adding a receiving water monitoring location.

Mark Gold, Heal the Bay, spoke in favor of the changes to the existing permit, especially in regard to the plume fate and transport study. He recommended that if the plume study demonstrates a significant impact on water quality, then the monitoring and reporting requirements should be modified.

Board Member Mindlin asked if there was a problem with notice requirements because of the changes in the change sheet and the changes given verbally today.

Michael Lauffer explained that the change sheets were sent to the discharger but the change to Finding 21 and the added monitoring station were not discussed with the discharger. However, he added that the changes were minor and consistent with Porter-Cologne.

Board member Cloke asked what the process would be to change the monitoring requirements based on the plume study.

Deborah Smith said that staff could insert a statement into the permit allowing the Board to require additional monitoring stations if needed.

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Mr. Lauffer added that the Executive Officer could also request additional monitoring with a 13267 letter.

There was a motion to adopt the staff recommendation with the changes in the change sheets and those given verbally.

MOTION: By Board Member Cloke, seconded by Board Member Shaheen, and approved on a voice vote. No votes in opposition.

Other Business

11. Consideration of Resolution Authorizing the Attorney General to apply for a court judgement to collect the civil penalty assessed against Truck Parts Company

Peter Newman, Truck Parts Company, spoke to the Board, explaining the nature of his business and asking for a 90-day extension before the Board referred his case to the Attorney General. He stated that he would schedule a payment plan with staff in that time and begin paying by the end of the 90 days.

Board Member Cloke asked if there was a reason why the Board could not make a motion to do as Mr. Newman requested.

Robert Sams, Staff Counsel, replied that they could continue the item to the next meeting, at which point staff could report on the progress of a payment plan. Mr. Sams added that a significant time had already elapsed since the issuance of ACL with no communication from the discharger.

There was a motion to continue the item to the next meeting at which time staff would present a progress report and a signed payment agreement with the discharger.

MOTION: By Board Member Cloke, seconded by Board Member Shaheen, and approved on a voice vote. No votes in opposition.

Basin Planning

10. Consideration of Ammonia Basin Plan Amendment

Jon Bishop, Regional Programs Section chief, gave the introduction and explained that the amendment was for freshwater inland waters only and did not consider saltwater objectives for enclosed bays and estuaries. Staff proposed to bring the saltwater objectives to the Board at a later meeting.

Renee DeShazo, of the TMDLs and Standards Unit, gave the staff presentation. She reviewed the occurrence of ammonia in the region, discussed its toxicity, and explained

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the purpose of the amendment, which was to reflect the revised freshwater criteria developed by EPA in 1999. She then went over the changes to the existing objectives including changes to the chronic and acute toxicity criteria. The chronic criteria would now be dependent on the presence or absence of early life stages of fish (ELS). Based on public comments, staff decided that only water bodies designated with the beneficial use "Spawning, Reproduction, and/or Early Development" (SPWN) will be designated as ELS present waters. She then discussed site specific objectives and the translation of objections to effluent limits.

Ms. DeShazo then went over public comments and staff's responses. The City and County of LA had numerous comments in a letter they recently sent to staff. In particular, they objected to the lack of a compliance schedule and the omission of language regarding the frequency of ammonia effluent limit exceedances. Staff responded that the purpose of the amendment is to establish water quality objectives and not to set criteria for compliance with effluent limits in permits. Through the permitting process, compliance with effluent limits will be determined on a case by case basis.

The Board took a break to review the written comments from the City and County of LA before proceeding. They asked that Staff make a better effort to send public comments to Board members well in advance of meetings.

Beth Bax, Los Angeles County Sanitation District, explained the reasons why the County wanted to include the ammonia effluent exceedance language from EPA guidance that states, "more than once every three years on average." She explained that it takes about three years to recover from one exceedance. She added that when the TMDLs come up they would be more stringent than the EPA criteria. She felt that there was no scientific justification for omitting the language and that the reason was probably to avoid litigation.

Shahrouzeh Saneie, City of Los Angeles Public Works Bureau of Sanitation, presented her concerns with the non-inclusion of a compliance schedule in the implementation plan. She stated that the City was not asking for a compliance schedule to meet the objectives in the basin plan, but to meet the upcoming effluent limits.

Mark Gold, Heal the Bay, objected to the weakening of the current basin plan because of EPA's east coast based recommendation of best available science, but he supported the amendment overall. He was concerned with the omission of the enclosed bays and estuaries requirement and recommended that staff bring back a complete Basin Plan amendment in one year. He also recommended that the Board revisit all soft bottom water bodies for presence of ELS and not just SPWN designated waters.

Board Member Cloke asked if Dr. Gold felt that EPA's east coast based science did not protect California waters.

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Dr. Gold replied that he believed the EPA recommendations were not appropriate for our waters but he agreed that the Board should go with the EPA recommendation because it would be defensible against probable litigation by the dischargers.

Board Member Cloke asked if the amendment were to require that standards be met by all soft bottom water bodies, would it create an opportunity for ELS to come back to places they previously did not exist.

Deborah Smith responded to this question and several other issues raised. She first addressed the exceedance language issue. She stated that EPA's criteria were intended to protect receiving waters but in this regulatory arena with many dischargers, the Board has to limit effluent exceedances. With respect to the compliance schedule issue, Ms. Smith stated that the Board provided 8 years to comply with the current, more stringent limits and that there was no reason to allow dischargers more time to comply with these more lenient limits. On the soft bottom issue, she agreed that all soft bottom waters may not be covered under SPWN and that Staff was not opposed to bringing the issue back before the Board.

Jon Bishop added that it was very likely that staff would bring back the amendment in a year with the enclosed bays and estuaries issue but that it might take a little longer to look at the soft bottom issue as well.

Michael Lauffer reviewed some of the ways the Regional Board could handle the issue of compliance schedules through the permitting process and by issuing time schedule orders.

There was a motion to adopt the freshwater ammonia objectives for inland surface waters as recommended by staff with direction to staff that they bring the issues of salt water standards and soft bottom waters back to the Board within one year.

MOTION: By Board Member Cloke, seconded by Board Member Shaheen, and approved on a voice vote. No votes in opposition.

The meeting adjourned at approximately 3:30 pm. The next regular meeting is scheduled for April 25, 2002, City of Agoura Hills, Council Chambers, 30001 Ladyface Court, Agoura Hills, California, at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting
submitted/amended.

Written and submitted by: _____.

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